

## MANUAL OF PATENT EXAMINING PROCEDURE

**111**

- 114 Models, specimens,
- 115 Oath of applicant.
- 116 Inventors.
- 117 Death or incapacity of inventor.
- 118 Filing by other than inventor.
- 119 Benefit of earlier filing date in foreign country; right of priority.
- 120 Benefit of earlier filing date in the United States.
- 121 Divisional applications.
- 122 Confidential status of applications.

**35 U.S.C. 111 Application.****(a) IN GENERAL.—**

(1) **WRITTEN APPLICATION.**—An application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title, in writing to the Commissioner.

(2) **CONTENTS.**—Such application shall include—

(A) a specification as prescribed by section 112 of this title;

(B) a drawing as prescribed by section 113 of this title; and

(C) an oath by the applicant as prescribed by section 115 of this title.

(3) **FEE AND OATH.**—The application must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner.

(4) **FAILURE TO SUBMIT.**—Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee and oath was unavoidable or unintentional. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

**(b) PROVISIONAL APPLICATION.—**

(1) **AUTHORIZATION.**—A provisional application for patent shall be made or authorized to be made by the inventor, except as otherwise provided in this title, in writing to the Commissioner. Such application shall include—

(A) a specification as prescribed by the first paragraph of section 112 of this title; and

(B) a drawing as prescribed by section 113 of this title.

(2) **CLAIM.**—A claim, as required by the second through fifth paragraphs of section 112, shall not be required in a provisional application.

(3) **FEE.**—(A) The application must be accompanied by the fee required by law.

(B) The fee may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner.

(C) Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee was unavoidable or unintentional.

(4) **FILING DATE.**—The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

(5) **ABANDONMENT.**—The provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.

(6) **OTHER BASIS FOR PROVISIONAL APPLICATION.**—Subject to all the conditions in this subsection and section 119(e) of this title, and as prescribed by the Commissioner, an application for patent filed under subsection (a) may be treated as a provisional application for patent.

(7) **NO RIGHT OF PRIORITY OR BENEFIT OF EARLIEST FILING DATE.**—A provisional application shall not be entitled to the right of priority of any other application under section 119 or 365(a) of this title or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c) of this title.

(8) **APPLICATION PROVISIONS.**—The provisions of this title relating to applications for patent shall apply to provisional applications for patent, except as otherwise provided, and except that provisional applications for patent shall not be subject to sections 115, 131, 135, and 157 of this title.

(Amended Aug. 27, 1982, Public Law 97-247, sec. 5, 96 Stat. 319; amended Dec. 8, 1994, Public Law 103-465, sec. 532, 108 Stat. 4809, effective June 8, 1995.)

**35 U.S.C. 112 Specification.**

The specification shall contain a written description of the invention, and of the manner and process of

## U.S. DEPARTMENT OF COMMERCE

Patent and Trademark Office

Washington, D.C. 20231

**MANUAL OF PATENT EXAMINING PROCEDURE**  
**Sixth Edition**

MANUAL

**Instructions Regarding Revision No. 1**

This Revision incorporates the changes necessitated by the Uruguay Round Agreements Act, Public Law No. 103-465. Appendix R-Patent Rules and Appendix L-Patent Laws have been updated to be current through the revision of patent fees, effective October 1, 1995. Chapter 2300 has not been revised at this time, however, to reflect the new interference rules.

This revision consists of replacement pages for the title page in the front of the Manual; the Table of Contents; entire Chapters 100 through 1800, 2100, 2200, 2400 and 2500; entire Appendices II-List of Decisions, R-Patent Rules, and AI-PCT Administrative Instructions; entire Index; and a portion of Appendix L-Patent Laws.

Chapters 700 and 2100 have been added to the Sixth Edition by this Revision. Both chapters have been extensively revised from how they existed in the previous Edition. Chapter 700 has been updated to reflect current practice and to focus on the procedural or "how-to" aspects of patent examination. Chapter 2100 has been restructured and expanded to provide a detailed discussion of the legal precedent for making proper patentability determinations.

Pages which have been printed in this revision are labeled as "Rev. 1" on the bottom. Sections of the Manual which have been changed by this revision are indicated by "R-1" after the section title.

Additions to the text of the Manual are indicated by arrows (><) inserted in the text. Deletions are indicated by a single asterisk (\*) where a single word was deleted and by two asterisks (\*\*) where more than one word was deleted. The use of three or five asterisks in the body of the laws and rules indicates a portion of the law or rule which was not reproduced.

J. Michael Thesz, Editor

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Rev.1, Sept. 1995